UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES

JOSEPH CHEVROLET, INC.

and Case No. 7-CA-45211

LOCAL 324, INTERNATIONAL UNION OF
OPERATING ENGINEERS, AFL-CIO-CLC

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for the General Counsel.
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Respondent-Employer.

DECISION

Statement of the Case

Bruce D. Rosenstein, Administrative Law Judge. This case was tried before me on March 25, 26, and 27, 2003, in Flint, Michigan, pursuant to a Complaint and Notice of Hearing in the subject case (complaint) issued on September 3, 2002[1], by the Regional Director for Region 7 of the National Labor Relations Board (the Board). The underlying original and amended charge was filed on June 14 and August 29, by Local 324, International Union of Operating Engineers, AFL-CIO-CLC (the Charging Party or Union) alleging that Joseph Chevrolet, Inc. (the Respondent or Employer), has engaged in certain violations of Section 8(a)(1) and (3) of the National Labor Relations Act (the Act). The Respondent filed a timely answer to the complaint denying that it had committed any violations of the Act.

Issues

The complaint alleges that Respondent engaged in violations of Section 8(a)(1) of the Act and a number of Section 8(a)(1) and (3) violations including the issuance of several written reprimands to bargaining unit employees, the layoff of three employees, the suspension and termination of one employee and harassing and more closely monitoring the work of two employees.

[1] All dates are 2002 unless otherwise indicated.

On the entire record, including my observation of the demeanor of the witnesses, and after considering the briefs filed by the General Counsel and the Respondent, I make the following

Findings of Fact

I. Jurisdiction

The Respondent is a corporation engaged in the retail sale and servicing of automotive vehicles at its facility in Millington, Michigan, where it annually derived gross revenues in excess of $500,000, and purchased goods and materials valued in excess of $50,000, which were shipped to its facility directly from suppliers located outside of Michigan. The Respondent admits and I find that it is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. Alleged Unfair Labor Practices

A. Background

The Union was certified as the exclusive collective-bargaining representative on March 23, 2001.[2] Shortly after the certification, employee Gary St. Charles was selected as the steward for the bargaining unit. St Charles participated as a member of the Union's negotiating committee and the parties' reached a one-year collective-bargaining agreement effective from May 23, 2001, to May 23 (GC Exh. 3). St. Charles continued as the Union steward until in or around September 2001 when he resigned his position. Shortly after the resignation, St. Charles was elevated to the position of used car inspection technician.[3]

By letter dated March 1, the Union notified the Respondent that it desired to make changes to the current collective-bargaining agreement and offered to meet for the purpose of negotiations (GC Exh. 4). By letter dated March 19, Respondent by legal counsel, apprised the

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[2] The Unit included "All full-time and regular part-time auto technicians employed by the Employer at its facility located at 9007 South State Road, Millington, Michigan; but excluding professional employees, office clerical employees, guards and supervisors as defined in the Act, employees currently represented by other labor organizations, and all other employees.

[3] Prior to the reassignment, St. Charles averaged 70 turned hours every two weeks. After his assignment to the new position, he averaged in excess of 100 turned hours every two weeks. Thus, his wages dramatically increased commencing in October 2001, and have remained at this elevated level to the present time. Technicians at Respondent are paid on a flat rate system. An industry wide motor book is relied upon to determine how long a car repair should take. For example, if the replacement of a new timing chain cover and seal is scheduled to take six hours and the technician is able to complete the repair in less then six hours, he is paid the six hours times his designated hourly wage rate. Conversely, if the technician takes longer than six hours to complete the repair, he is not paid extra for additional hours spent to complete the job.

Union of its intent to terminate and renegotiate all provisions of the existing agreement and requested representatives of the Union to contact counsel to schedule an initial bargaining session (GC Exh. 6). The first negotiation session between the parties occurred on April 15, with subsequent sessions held on April 23, May 3, May 8, May 9, and June 12. The parties were unable to reach a successor collective-bargaining agreement pursuant to these negotiations.

On March 18, St. Charles filed a Decertification Petition in Case 7-RD-3342, asserting that a substantial number of employees believe that the currently certified bargaining representative no longer represents them. In a series of four memoranda sent by Respondent to its employees, it raised a number of issues that the bargaining unit should consider when voting in the upcoming decertification election scheduled for April 30 (GC Exh. 8, 9, 10, and 11). Upon the conclusion of the election, a Tally of Ballots was made available to the parties. It showed of the 14 approximate eligible voters that four ballots were cast for the Union and four votes were cast against the participating labor organization. There were six challenged ballots, which were sufficient in number to affect the results of the election. On May 3, the Union filed timely "Objections to Conduct Affecting the Results of the Election."[4] An investigation of the challenges and objections were conducted under the supervision and direction of the Regional Director of Region 7. Based on that investigation, the Regional Director recommended that the Union's objections be overruled in their entirety, the challenges to the ballots of Aaron Gazarek, Brian Brunner, Aaron Begley, and Brent Clark be overruled and their ballots be opened and counted. Additionally, the Regional Director recommended that the ballots of Tim O'Berry and Bruce Aulbert, if still determinative, be deferred to the arbiter's decision[5] (GC Exh. 25). By Decision and Direction, the Board adopted the Regional Director's findings and recommendations (GC Exh. 26). The Regional Director on August 9, after the rendering of the arbitrator's decision, issued a Certification of Results of Election, finding that a majority of the valid ballots has not been cast for any labor organization and that the Union has been decertified as the exclusive collective-bargaining representative of the employees in the Unit (GC Exh. 27).

B. The Section 8(a)(1) Allegations

1. Allegations concerning Richard Stokes

The General Counsel alleges in paragraph 7(a) of the complaint that General Manager Stokes, on or about May 30, coercively interrogated an employee about whether the employee was engaging in union activity.

[4] The Union filed, on May 28, an unfair labor practice charge in Case 7-CA-44985, asserting parallel allegations to those alleged in their objections. That charge was subsequently withdrawn by the Union on June 26.

[5] O'Berry and Aulbert were terminated in March 2002 for allegedly defrauding the employer while performing services without current state mechanic certifications. The Union filed timely grievances under the then current agreement. The arbitration, however, took place after the expiration of the agreement. The arbitrator determined that the employees did not violate the contract as alleged by the Employer and ordered the two employees reinstated to their prior technician positions.

The Board has held that interrogation is not a per se violation of Section 8(a)(1) of the Act. *Rossmore House,* 269 NLRB 1176, (1984), affd. sub nom. *Hotel Employees Union Local 11 v. NLRB,* 760 F.2d 1006 (9th Cir. 1985). In determining whether an interrogation is unlawful, the Board examines whether, under all the circumstances the questioning reasonably tends to interfere with, restrain, or coerce employees in the exercise of their Section 7 rights. *Rossmore House,* 269 NLRB at 1177-1178. *Emery Worldwide,* 309 NLRB 185, 186 (1992). Under the totality of circumstances approach, the Board examines factors such as whether the interrogated employee is an open and active union supporter, the background of the interrogation, the nature of the information sought, the identity of the questioner, and the place and method of interrogation. *Rossmore House,* 269 NLRB at 1178 fn. 20; *Bourne v. NLRB,* 332 F.2d 47, 48 (2d Cir. 1964); *Sunnyvale Medical Clinic,* 277 NLRB 1217, 1218 (1985).

On May 29, the Union initiated an informational picket line at the Respondent that continued for approximately 30 days until on or about June 29. Both non-employee union business representatives and employees patrolled the premises carrying picket signs that stated, "Joseph Chevrolet Unfair to Operating Engineers Local 324." During the first several days of the picketing, the Union erected an inflated twelve-foot rat along the roadside. The rat contained a handmade sign around its neck that read "Joe Hood."

Employee Michael Cooper worked at Respondent for approximately ten years and held master and ASE certifications as an automotive technician. He was a member of the Union who always wore his union hat and drank coffee from a mug that contained a union logo affixed thereto.

On May 30, Stokes gave lay off slips to three employees including Cooper. Stokes informed Cooper that because the Union is picketing in front of the facility it will probably be slow for the summer and he would be one of the employees selected for lay off. Cooper requested something in writing but Stokes refused. During the course of the conversation between Cooper and Stokes, the receptionist paged Cooper to take an incoming telephone call. Cooper walked into the parts department to pick up the telephone. Stokes was adjacent to the parts department and asked Cooper if he was calling the Union. Cooper said no, the telephone call was from his wife.

This allegation stands unrebutted, as Stokes did not address the matter during his testimony. I find that Stokes interrogated Cooper about calling the Union because of the presence of the Union's picket line. Such questioning of an employee tends to be coercive. In this regard, the practice of the parties was to permit employees to receive short telephone calls after being paged by the receptionist without interruption. Respondent did not present any evidence that this was not the method in which employees were permitted to receive telephone calls.

Under these circumstances, I find that Stokes questioning of Cooper about whether he was making a telephone call to the Union is coercive interrogation that violates Section 8(a)(1) of the Act.

2. Allegations concerning Joseph Hood

The General Counsel alleges in paragraph 7(b) of the complaint that Owner Hood, on or about June 14, advised an employee that the employee lost his job because of the employees' union activities.

The parties' met for their last negotiation session on June 12 in an effort to finalize contract proposals for their successor agreement. Attorney Schwartz, Hood and Luttman represented Respondent. The Union participants included Business Representatives Dave Williamson and Allan Booth and employees Larry Stevens and Tony Amend. During the course of this meeting the parties talked about the discharge of Amend that occurred on May 30, and whether the Respondent would reinstate him. Hood asked Amend whether he wanted to return to work and Amend replied that, "Yes, I want to come back to work for you. Don't you want me back?" Booth testified that Hood said, "Your job got fucked up at the bargaining table." Booth was so taken back by this statement that he memorialized what Hood said on the front of a brown envelope that contained union bargaining proposals (GC Exh. 20). Stevens testified that Hood said, "You fucked up your job because you're sitting at the other side of that table."[6] Likewise, Amend testified that during the June 12 negotiation session when the topic of the conversation turned to the issue of his reinstatement, Hood said that he had a good job "but you lost your job right here at this bargaining table. "

Luttman denied that Hood linked the loss of Amend's job to his participation in collective-bargaining negotiations but did acknowledge that Hood said, "You fucked yourself up." Hood denied that he made any remarks that could be interpreted that Amend lost his job because of his negotiation responsibilities but did admit that he might have said "You fucked up", during the course of the meeting.

Based on the forgoing, I am inclined to credit the testimony of Booth, Stevens and Amend. Each of these individuals testified in a forthright manner with excellent recall as to what occurred during the course of the bargaining session. On the other hand, Luttman was very vague and evasive as to what was discussed during the course of the meeting and had to be prompted by counsel on a number of occasions in order to elicit testimony on direct examination. Moreover, Luttman did admit that he recalled Hood used the words "You fucked yourself up" which is different than what Hood testified to and much closer to the testimony of the three other individuals concerning what took place during the course of the meeting. I note, that Attorney Schwartz did not testify what he recalled took place during this meeting, despite being present as a negotiator on June 12.[7] Lastly, I find that immediately after Hood made the remark on June 12, Booth memorialized what was said. Thus, I conclude that the preponderance of the evidence establishes that Hood made the remark as alleged by the General Counsel during the course of the June 12 negotiation session.

Therefore, I find that such a remark interferes with, restrains, and coerces employees in the exercise of the rights guaranteed in Section 7 and is violative of Section 8(a)(1) of the Act.

[6] Respondent, in an effort to attack Stevens's credibility, pointed out that the remarks attributed to Hood at the June 12 negotiation session were not contained in his affidavit that he previously gave to the Board investigator. I credit Stevens's testimony that the Board agent asked him questions about what happened to him and did not address what took place at the June 12 negotiation session in his affidavit.

[7] Unlike the courts, the Board does not pass on, and leaves to State bar associations to decide, questions of ethical propriety of a party's trial attorney testifying in a Board proceeding. When a trial attorney's testimony is otherwise relevant and competent, it is admissible. *Reno Hilton,* 319 NLRB 1154, 1185 fn. 18 (1995); *Operating Engineers Local 9 (Fountain Sand),* 210 NLRB 129, fn. 1 (1974).

3. Allegations concerning Gary Niver

The General Counsel asserts in paragraph 7© of the complaint that Gary Niver, on or about June 28, advised employees that they were being harassed because of the employees' union activities.

Niver, as the Service Manager of Respondent, was the first line supervisor of technicians Cooper, Stevens and Robert Shelton. Niver, despite never previously socializing outside of work with the three technicians, invited them to have lunch at Cardinal Pizza. While conversing during lunch, Niver told the three employees that he heard a rumor that they might be leaving the dealership and he wanted them to know that Hood did not want any of them to leave. Cooper asked Niver whether the harassment of employees would stop. According to Cooper, Niver said that "Hood couldn't control Stokes harassment, but as far as he knew, it was going to stop." Niver then said, "Quit biting the hand that feeds us." Stevens and Shelton confirmed that they attended the lunch with Niver on June 28 at Cardinal Pizza. Stevens testified that after Niver informed them that Hood did not want them to leave the dealership, he told the employees that the Union was going to withdraw the unfair labor practice charges, that things would get back to normal, and according to Hood the harassment was going to stop. Shelton also testified that in response to a question by Cooper about employee harassment, Niver said the harassment should be ending very soon.

Niver, who admitted that he invited Cooper, Stevens and Shelton to have lunch on June 28 primarily to inform them that Hood wanted them to remain at the dealership denied that any discussions took place about harassment. My overall impression of Niver's credibility is suspect as he was very vague, did not have a good recollection of overall events during the May and June 2002 time period, and did not address critical aspects of what took place at the June 28 lunch. Indeed, he did not deny that he told the group that Hood could not control Stoke's harassment of the employees or that he made the remark quit biting the hand that feeds us.

I conclude that the testimony of Cooper, Stevens and Shelton has a ring of truth to it when compared to Niver's recitation of events. Moreover, I note that the union's picketing ceased around this time and true to Niver's prediction the harassment of the employees ceased.

Under these circumstances, I find that the General Counsel sustained the allegations of paragraph 7© of the complaint, and conclude that Niver engaged in conduct violative of Section 8(a)(1) of the Act.

C. The 8(a)(1) and (3) Allegations

1. Written Reprimand Issued to Larry Stevens

The General Counsel alleges in paragraph 8(a) of the complaint that Stokes, on or about May 14, issued a written reprimand to Stevens.

In *Wright Line,* 251 NLRB 1083 (1980), enfd, 662 F.2d 899 (1st Cir. 1981), cert. denied 455 U.S. 989 (1982), the Board announced the following causation test in all cases alleging violations of Section 8(a)(3) or violations of Section 8(a)(1) turning on employer motivation. First, the General Counsel must make a prima facie showing sufficient to support the inference that protected conduct was a "motivating factor" in the employer decision. On such a showing, the burden shifts to the employer to demonstrate that the same action would have taken place even in the absence of the protected conduct. The United States Supreme Court approved and adopted the Board's *Wright Line* test in *NLRB v. Transportation Management Corp.,* 462 U.S. 393, 399-403 (1993). In *Manno Electric,* 321 NLRB 278 fn. 12 (1996), the Board restated the test as follows. The General Counsel has the burden to persuade that antiunion sentiment was a substantial or motivating factor in the challenged employer decision. The burden of persuasion then shifts to the employer to prove its affirmative defense that it would have taken the same action even if the employee had not engaged in protected activity.

a. The Facts

Stevens has been an active union member since the certification of the Union in March 2001, having served on the Union's negotiating team for both the initial and successor collective-bargaining agreements and assuming the union steward position after the resignation of St. Charles in September 2001. Thus, it was common knowledge that Stevens was an active and ardent supporter of the Union.

On May 14, Stokes overheard Stevens talking on the telephone during work time with Booth about union related business. When asked by Stokes whether he was talking to Booth about union business, Stevens denied it but admitted during his testimony that he lied to Stokes by denying he was talking to Booth. Stokes gave Stevens a written reprimand for talking on the telephone with the union during duty time, a matter prohibited by the parties' collective-bargaining agreement.[8]

b. Discussion

I am not persuaded under *Wright Line,* that the General Counsel has made a strong showing that the Respondent was motivated by antiunion considerations when it issued the written reprimand to Stevens. In this regard, at the time of the issuance of the discipline on May 14, the union 's picket line had not been established, Respondent had not committed any independent 8(a)(1) violations of the Act, and other then ongoing collective-bargaining negotiations between the parties, there was no other evidence presented of violative conduct undertaken by Respondent. Indeed, the General Counsel did not allege any other violations in the complaint that occurred around this time period.

Further, Stevens admitted that he was aware of the provision contained in the parties' collective-bargaining agreement that prohibited union representatives from conducting union related business on duty time, and grudgingly admitted that on April 3, he had received a prior written reprimand for the same offense (R Exh. 24). I also note that St. Charles testified that when he was the union steward, he was informed that routine union business could not be conducted during duty time.

[8] Article 4, Section 2 states: Unless a grievance requires immediate action for health or safety reasons, grievance discussion and resolution shall be done before or after work hours only.

Based on the forgoing, and particularly noting that Stevens admitted that he lied to Stokes about who he was talking to on the telephone, I find that the written reprimand issued to Stevens was for legitimate reasons unrelated to his union activities. If others disagree and determine that the Respondent was motivated by antiunion considerations in issuing the written reprimand to Stevens, I find that the Respondent would have imposed the discipline even in the absence of the employee's protected conduct.

Therefore, I recommend that paragraph 8(a) of the complaint be dismissed.

2. The Suspension and Discharge of Tony Amend

The General Counsel alleges in paragraph 8(b) of the complaint that the Respondent suspended on May 17, and thereafter terminated Amend on May 30.

a. The Facts

Amend commenced employment with Respondent in January 2000 as a certified and master ASE automotive technician. From the inception of his employment, Amend demonstrated that he was an industrious worker and became the highest producer in terms of hours turned. He was elected as the assistant union steward working with Stevens and became a member of the Union's negotiating team for the successor collective-bargaining agreement. Prior to May 17, the date of his suspension, he had no prior discipline on his employment record.

Amend was assigned to repair a Chevrolet Truck Blazer that required him to complete a number of items including the diagnosis of an oil leak, steering and suspension problems and various mechanical concerns (R Exh. 4 and GC Exh. 13). Amend inspected the vehicle and discerned that a number of parts were necessary to complete the work. He then listed the parts needed to complete the job on the back of the repair order. After receiving the parts, he commenced working on the vehicle. On May 17, St. Charles along with two other employees apprised Stokes that Amend was committing warranty fraud by overcharging the customer for work and parts that were listed on the repair order but were not actually performed or installed. In this regard, the repair order noted that the motor book allotted six hours to perform the replacement of a front timing chain cover and seal. St. Charles informed Stokes that Amend did not install a new front timing chain cover but merely removed the seal from the new timing chain cover and inserted it in the old timing chain cover. The motor book indicated that just replacing the seal in the timing chain cover should take no more than 1.5 hours. The repair order, however, indicated that Amend was going to charge the customer for 6.0 hours of work. This action inflated Amend's turned hours for the repair and increased his wages earned for the job.

Stokes instructed St. Charles to pull the vehicle into a stall and place it on a rack so they could both inspect the timing chain cover and seal. Stokes and St. Charles observed that the timing chain cover on the vehicle had not been replaced even though the repair order noted that the part had been provided to Amend and that the customer was to be charged for the part and the work. Both Stokes and St. Charles testified that only a new seal had been inserted in the old timing chain cover. Stokes also requested master technician Micheal Albin to observe the vehicle while it was up on the rack. Albin confirmed that the timing chain cover was dirty and had not been replaced.

Stokes confronted Amend with his findings and told him he was going to be suspended for performing fraudulent automobile repair practices in accordance with Article 13, Section 1(b), of the parties' collective-bargaining agreement. Amend was given a written reprimand for this infraction (R Exh. 11), and a letter was sent to his residence dated May 17, advising that he was suspended pending advisability of discharge (GC Exh. 14).[9] Hood returned from out of town on or about May 26, and after reviewing the repair order and discussing the matter with Stokes, agreed that Amend should be terminated for engaging in fraudulent automotive repair practices. On May 30, Stokes observed Amend on the picket line and attempted to hand him a letter that confirmed his discharge. Amend did not accept the letter but read it and noted that he was being terminated from the Respondent. A subsequent letter to this effect was mailed to Amend's home address (GC Exh. 15).

b. Discussion

I am not persuaded under *Wright Line,* that the General Counsel has made a strong showing that the Respondent was motivated by antiunion considerations when it suspended Amend on May 17. In this regard, Stokes did not independently initiate the action and only became aware of the alleged fraudulent automotive repair practices based on information received from St. Charles and two other bargaining unit employees. Thus, I am hard pressed to find that any Respondent manager including Stokes took the action against Amend because of his union activities. It should be noted that on or before May 17, the record did not establish nor have I found that the Respondent engaged in any Section 8(a)(1) conduct under the Act. The Union's picket line had not been established on this date and the alleged harassment of unit employees had not began. While I note that the parties' were engaged in ongoing bargaining for their successor agreement and Amend was a member of the Union's negotiation team, there are no allegations in the complaint that any infractions occurred during the five bargaining sessions that were held prior to May 17 (GC Exh. 7).

Based on the forgoing, I recommend that the portion of paragraph 8(b) of the complaint relating to the suspension of Amend be dismissed. Further, I find that the Respondent would have suspended Amend for engaging in fraudulent automotive repair practices even in the absence of any union activity.

With respect to the termination of Amend that occurred on May 30, I find that the General Counsel has made a strong showing that the Respondent was motivated by antiunion considerations. In this regard, just prior to the termination, the Union had commenced an informational picket line at Respondent's facility. Due in part to this action, the Respondent laid off three employees as they anticipated that work would be slow due to a high percentage of their customers being from union families who would be unwilling to cross the picket line. Additionally, I credit Booth's testimony that during the June 12 negotiation session when the parties were discussing whether Amend would be returned to work, the subject of the picket line came up and Hood said," the picket line is ruining my business." Hood did not deny that he made such a statement during his testimony.

[9] Stokes was not authorized to terminate an employee without the review and concurrence of Hood who was out of town.

Stokes independently made the decision to suspend Amend on May 17, but was not authorized to terminate employees without the approval of Hood who was out of town. Hood returned to the facility on or about May 26, and after reviewing the repair order and talking to Stokes and Niver about the matter, agreed that Amend must be terminated. While Hood is certainly authorized to make such a decision, I note the lack of due process that was afforded Amend. In this regard, no independent investigation was conducted to get Amend's position as to what occurred regarding the repair order or why he decided only to install the seal instead of the timing chain cover that contained the seal. The decision by Hood was open and shut and did not allow for any input from the aggrieved employee. This is especially noteworthy in that the subject trial was the first time that Amend had a forum to tell his side of the story. Indeed, Amend testified that it was Dispatcher Jay Wright that first wrote the six hours on the repair order that established how many hours were necessary to complete the repair and Amend merely used this figure when he forwarded the repair order to the parts department. Additionally, Amend testified that he told James Hohman in the parts department that he only needed the seal to complete the repair but Hohman informed him that that he did not think you could get the seal separately without the cover. The Board has consistently held that an employer's failure to conduct a fair and complete investigation gives rise to an inference of unlawful animus. *Publishers Printing Co., Inc.,* 317 NLRB 933, 938 (1995); *Syncro Corp.,* 234 NLRB 550, 551 (1978).

I also conclude that Amend was not afforded the same treatment when comparing the discipline of other employees who were charged with similar offenses. Amend was terminated based on only one infraction without being afforded progressive discipline unlike other employees. Indeed, the Board has held that if an employer maintains a progressive disciplinary system, the failure to follow it is frequently indicative of a hidden motive for imposing more severe discipline. See, *Fayette Cotton Mill,* 245 NLRB 428 (1978); *Keller Mfg. Co., Inc.,* 237 NLRB 712, 713-14 (1978). I also note that Amend had no prior history of discipline on his record unlike other employees. For example, employee Shawn Reitz charged a customer for an oil change on two separate occasions within a one-week period when he did not put any oil in the vehicle. On both occasions Reitz was given a written reprimand and was not terminated from Respondent until he finally committed a third offense of overcharging a customer (GC Exh. 35 and 36). Unlike Amend, Reitz had numerous absence reports and other written reprimands in his personnel file that occurred prior to the two incidents involving the oil change but still was not terminated (GC Exh. 37 (a)-(j)). In a separate incident involving St. Charles, a customer complained that he was experiencing a brake problem on a used car that he had recently purchased. Amend was asked to check the vehicle and noticed the brakes were dirty. Wright checked the invoice and noted that St. Charles had recently installed new brakes on the vehicle. This is the same type of fraudulent automotive repair practices that Amend was terminated for but St. Charles was not given any discipline for this incident.

Lastly, and the most telling reason that I find that Amend was terminated because of his protected conduct, is based on my earlier finding that Hood's motivation for the termination was centered on Amend's participation at the bargaining table when he informed Amend and those in attendance at the June 12 session that "Your job got fucked up at the bargaining table." Additionally, I note that Hood also said that the picket line was ruining his business and he was aware that Amend appeared on the picket line on the morning of May 30 before the termination letter was shown to him.

For all of the above reasons, I find that Amend was terminated by Respondent because of his activities on behalf of the Union and not for the reason asserted by Respondent of performing fraudulent automotive repair practices. Thus, I find that the Respondent has not established that it would have taken the same action even in the absence of Amend's protected activity.

Therefore, I find that the Respondent engaged in conduct violative of Section 8(a)(1) and (3) of the Act when it terminated Amend on May 30.

3. The May 30 Layoff

The General Counsel alleges in paragraph 8© of the complaint that the Respondent laid off Keith Honeman, Mike Cooper, and Larry Stevens.

a. The Facts

Stokes testified that once he observed the establishment of the picket line on May 29, he instructed Niver to select three employees for layoff as he anticipated that the presence of the picket line would detrimentally impact business. Accordingly, Niver selected the above noted employees for layoff and either he or Stokes notified each of them on May 30 that they would be placed on will call and would be contacted when work picked up.

Honeman was called into Niver's office on May 30, as he was again late for work. Niver informed him because of his poor attendance record and due to the picket line outside the facility that he anticipated would reduce work he was going to be placed on layoff for several weeks.

Stokes informed Cooper that he would be placed on will call effective May 30 because the Union had established a picket line and work will probably be slow for the summer. Cooper asked for something in writing to this effect but Stokes refused to provide any written documentation. Cooper was off work for three days before he was recalled on June 4.

Stokes reached Stevens at home on May 30 and apprised him he would be placed on will call because the Respondent anticipated that work would be slow due to the Union's picket line outside the facility. Stokes instructed Stevens to come to the facility and pick up his toolbox. Stevens did not go into the facility on May 30, but did meet with Nivers on May 31 who told him he could leave his toolbox in the shop. Stevens was called back to work on June 7.

b. Discussion

Honeman did not establish that he was actively involved in the Union nor did the General Counsel elicit such testimony. He did acknowledge that prior to May 30 Respondent counseled him about attendance infractions and his personnel file contained a record of these infractions. Respondent introduced into evidence seven examples of attendance infractions that Honeman received between November 7, 2001 and May 30 (R Exh. 13-19). Moreover, the Respondent established that during the Union picket line, net labor sales dropped approximately $10,000 when compared to prior months when the picket line was not present (R Exh. 12).[10]

[10] Based on the record evidence, I find that the decision to conduct the layoff was not motivated by antiunion animus. Rather, I conclude that Stokes anticipated that business would be slow as the majority of Respondent's customers were union families who would be reluctant to cross a picket line. On the other hand, I find that Respondent's selection of who would be

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Based on the forgoing, I do not find that Honeman was selected for layoff because of his union activities. Rather, I find that he was placed on layoff for legitimate business reasons including his attendance infractions and the need to reduce employee compliment due to the presence of the picket line and its anticipated impact on business. Thus I find that even if Honeman had established antiunion sentiment was a motivating factor in the layoff, the Respondent would have taken the same action even if he had not engaged in protected activity.

In regard to the reasons that Stevens and Cooper were selected for layoff, the Respondent asserts that both individuals had a history of low hours turned and neither of them was able to perform front end alignments or front wheel drive transmission work.[11]

There is no question that the Respondent knew that Stevens and Cooper were ardent union supporters. I am suspect concerning the reasons that Stevens and Cooper were selected for layoff based on the following reasons. First, at no time prior to May 30 has the Respondent routinely laid off technicians due to lack of work. Indeed, employee records show that when comparing hours turned for May 15, 2001 with May 15, fewer hours were turned in 2001 yet no technicians were laid off due to lack of work (GC Exh. 17). Additionally, when comparing hours turned for the pay period ending May 15, just before the establishment of the picket line, the hours turned for Stevens and Cooper are comparable to those of employees Tom Zigoris and Aaron Gazarek. I have examined a provision in the parties' collective-bargaining agreement that is material to the layoff.[12] In this regard, Stevens and Cooper were classified as "A" technicians and paid the highest base hourly rate. Although the Respondent argues that Stevens and Cooper could not perform front-end alignment and front wheel transmission work, only two employees were designated to perform this work. Assuming that it was necessary to keep these two employees gainfully employed, there were other "A" technicians that had less seniority than Stevens and Cooper who should have been laid off in accordance with the parties' collective-bargaining agreement. Moreover, I note that the Respondent recently hired four employees in March 2002. It strains credulity to conclude that their experience and expertise at the facility exceeded that of Stevens and Cooper.[13] Lastly, aside from Honeman there were other employees who had experienced attendance problems prior to the layoff on May 30. For example, Honeman testified that Niver also counseled employees Brent Clark and Charley Taylor regarding their attendance and Clark was one of the new employees hired by Respondent in March 2002. Likewise, Zigoris had a history of attendance problems at the Respondent dating back to April 2001 including four infractions that occurred in 2002 (GC Exh. 38(a)-(j)). Moreover, two of Zigoris's infractions in 2002 noted that he was not covering his hours, had a lack of production and a lack of work.

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laid off was motivated by antiunion animus as it concerned Stevens and Cooper.

[11] Stevens testified without contradiction that on June 25 he performed a front-end alignment repair on a vehicle in a shorter period of time then prescribed in the motor book and did so without using the computer. Thus, I find Respondent's reliance on the fact that Stevens could not perform front-end alignment work to be pretextual.

[12] Article 9, Section 3, titled Layoff and Recall provides in pertinent part that if circumstances warrant a reduction of hours, such a reduction shall take place in accordance with the skill, merit and ability of employees, as determined by the Employer. In cases where skill, merit and ability are equal in the determination of the Employer, the least senior employee shall be laid off first.

[13] The parties' collective-bargaining agreement provides for a 90 calendar-day probationary period.

Based on the forgoing, I find that the Respondent's selection of Stevens and Cooper for the layoff on May 30 to be pretextual. The evidence conclusively establishes that there were other employees who either had attendance problems, a history of poor work performance or should have been selected for layoff under the parties' collective-bargaining agreement rather than Stevens and Cooper. I conclude that both of these individuals were selected for layoff due to their support of the union and that the Respondent selected them due to its hostility against the Union for establishing the picket line the day before the layoffs.[14] I further note that on June 12, Hood informed the Union that the picket line was ruining his business.

Therefore, I find that the General Counsel has sustained the allegations contained in paragraph 8© of the complaint and conclude that Respondent violated Section 8(a)(1) and (3) of the Act.

4. Harassment of Larry Stevens and Michael Cooper

The General Counsel alleges in paragraph 8(d) of the complaint that from about June 24 to June 26, Respondent harassed and more closely monitored the work of Stevens and Cooper.

a. The Facts

On June 25, Stevens was completing the replacement of a front axle on a truck when Stokes informed him that he wanted him to do the front-end alignment on a truck. Stokes continued to berate Stevens by telling him "You're getting old", "you are master certified and you're not good" and followed and observed him while he was completing the alignment work. Stokes wanted to know why the repair was taking so long and said, "I thought you were good, I thought you could beat flat rate." Stokes told Stevens that he was going to have he and Cooper clean up other technicians work areas but he did not follow through on this threat. Although Stokes admitted that he observed Stevens on this day, he denied that he harassed him or told him he was old and no good. Co-workers Cooper, Shelton and Honeman testified that on June 25, they observed and heard Stokes make the comments noted above concerning Stevens.

b. Discussion

Both Stevens and Cooper credibly testified that it was unusual for Stokes to remain in the service area and observe a technician for such a long period of time.

It is significant that the only two employees that Stokes closely monitored were Stevens and Cooper who just happen to be active supporters of the Union. As I previously found, Niver told Stevens and Cooper at the June 28 lunch that Hood could not control Stokes harassment of the employees and since the Union was planning on withdrawing the unfair labor practice charges, the harassment would end soon. True to this prediction, the harassment ceased on June 29, about the same time that the Union ended the picket line at Respondent.

[14] The Tally of Ballots from the April 30 Decertification Election showed four votes cast for the Union. I conclude that the Respondent had a good idea who voted to retain the Union (Stevens, Cooper, Amend and Shelton).

For all of the above reasons, I find that Stokes sought out Stevens and Cooper and harassed and more closely monitored their work because of their support for the Union. In this regard I note the written reprimands issued to Stevens and Cooper, discussed below, were given to these employees during the period of time that the Union engaged in picketing of the Respondent. No other employees received such repetitive and harassing treatment during the period the picket line was established. Therefore, I conclude that the Respondent has not established that it would have taken the same action against these employees even in the absence of their protected conduct.

Thus, in agreement with the General Counsel, I find that the Respondent violated Section 8(a)(1) and (3) of the Act by Stokes actions.

5. Written Reprimands Issued to Three Employees

The General Counsel alleges in paragraph 8(e) of the complaint that on or about June 24, Respondent issued written reprimands to Robert Shelton, Larry Stevens and Michael Cooper.

a. The Facts

Around 3 p.m. on June 24, a former employee came into the service area to say hello to a number of the technicians. A conversation ensued with Shelton, Stevens, Cooper and Aaron Gazarek. Stokes, who asserted he was watching the conversation for 35 minutes before he came over to where the employees were conversing, instructed the former employee to leave the premises and accused the employees of engaging in a work stoppage. Apparently, Gazarek left the group sometime during the conversation but the record is not clear on how long Gazarek remained in the conversation before Stokes came over to the group. Stokes instructed Niver to issue written reprimands to Shelton, Stevens and Cooper for engaging in a work stoppage. (GC Exh. 21,22, and 23).

b. Discussion

Article 13, Section 1(l), of the parties' collective-bargaining agreement provides that discipline may be issued to employees for "Engaging in strikes, slow downs, or other conduct violative of the No-Strike/No-Lockout Clause or attempting to induce others to do so."

In my opinion the above clause, that was the basis for the written reprimands, was not meant to cover verbal shop floor conversations among employees. Stokes knew perfectly well that the person his technicians were conversing with was a former employee who they had not seen or talked to for some period of time. Stokes created this situation by casting about and observing the employees talking rather then going over at the inception of the conversation and asking the former employee to leave the premises and instructing the technicians to return to work. As further evidence of pretext, Shelton testified without contradiction that he just started his afternoon break at 3 p.m., and when he joined the conversation Stokes came over to the group of employees. Stokes, on the other hand, denied that he ever walked over to the group or instructed the former employee to leave the premises. That testimony is contrary to the recitations of Stevens, Cooper and Shelton. Moreover, I find that the issuance of the reprimands to these three employees was a continuation of the harassment that Stokes had embarked upon, and was confirmed by Niver at the June 28 lunch. Likewise, unless Gazarek left the conversation at the outset, it smacks of disparate treatment that he did not receive a written reprimand for his participation in the conversation. In this regard, Stokes testified that when he observed the group he noticed that Gazarek walked away and that is the reason he did not receive a written reprimand. However, Stokes conveniently did not indicate at what point Gazarek left the discussion and his recitation is contrary to the three other employees who all testified that Gazarek was present during the majority of the discussion. Moreover, Shelton testified that Gazarek was present when he joined the conversation just after he commenced his afternoon break. Stokes rationale does not withstand scrutiny as he stated that he observed the group engaging in conversation for approximately 35 minutes before he instructed Niver to issue written reprimands to Stevens, Cooper and Shelton. Therefore, Gazarek also should have received a written reprimand for his participation in the conversation. Unlike Gazarek, the three individuals that received the reprimand were known supporters of the Union.[15]

Based on the forgoing, I find that Stokes in instructing Niver to issue the written reprimands to Shelton, Stevens and Cooper relied upon pretextual reasons to mask the true reason for issuing the discipline. This was a continuation of the pattern of harassment that Stokes used to punish those employees who supported the Union and dared to establish a picket line at Respondent's facility.

Therefore, I find that the Respondent violated Section 8(a)(1) and (3) of the Act when it issued written reprimands to Shelton, Stevens and Cooper. Accordingly, I find that the Respondent did not establish that it would have issued the reprimands to these employees even in the absence of their protected conduct.

6. Written Reprimand Issued to Michael Cooper

The General Counsel alleges in paragraph 8(f) of the complaint that Respondent issued Cooper on or about June 25, a written reprimand (GC Exh. 24).

[15] It is noted that prior to the decertification election, Gazarek signed a letter requesting assurances from the Respondent that benefits would remain the same if the Union was decertified, thus raising the inference that he would vote against retaining the Union as the bargaining representative.

a. The Facts

On June 25 Cooper was just finishing a job in the shop and was pulling the vehicle away from the repair bay. At that time, the receptionist paged Cooper to pick up an incoming telephone call. Stokes, who was in the service area, noticed that Cooper was pulling the vehicle away from the service bay and picked up the telephone. Stokes determined that the third party on the telephone wanted to know if Cooper was interested in buying a used car to either repair or use the spare parts. Stokes determined that Cooper was running a competitive business on duty time and instructed Niver to issue the written reprimand to Cooper.

b. Discussion

The record discloses that there was no policy against technicians receiving personal telephone calls while on duty time. Moreover, it was common knowledge among Respondent representatives that Cooper, who had worked for the Employer in excess of ten years, had a business on the side to purchase and repair used cars. Cooper had been open and notorious about this venture and his outside work after hours and on weekends never interfered with his duties and responsibilities at Respondent. Indeed, he had never been disciplined previously for any conduct related to this outside business.

On June 25, the picket line was still being maintained outside the facility and Respondent was aware that Cooper was an ardent supporter of the Union. Moreover, on June 28, Niver told Cooper and two other employees that Hood could not control Stokes harassment but stated that the harassment would be stopping soon. Shortly thereafter, once the picket line was removed, the harassment ceased.

Based on the forgoing, I find that this was a continuation of the pattern of harassment that Stokes embarked upon during the month of June 2002 against selected employees that supported the Union. I find that Stokes used the telephone call from the third party as a pretext to mask the true reason for issuing the written reprimand.

Therefore, I find that the Respondent violated Section 8(a)(1) and (3) of the Act when it issued the written reprimand to Cooper.

7. Written Reprimands Issued to Michael Cooper and Gary St. Charles

The General Counsel alleges in paragraph 8(g) of the complaint that Respondent issued, on or about June 7, written reprimands to Cooper and St. Charles.

a. The Facts

On June 7, both Cooper and St. Charles were working on vehicles without wearing their safety glasses. Stokes happened to be in the service area and observed both employees working on vehicles without wearing their safety glasses. Stokes instructed Niver to issue both employees written reprimands for this infraction (GC Exh. 20(a) and (b)).

b. Discussion

In November 2001, Respondent issued a memorandum to all employees reminding them that safety glasses must be worn in the shop while they were working on vehicles (R Exh. 6). Cooper, St. Charles and Amend testified that they knew that this was a requirement but they often forgot to wear the safety glasses and the policy was not regularly enforced by Respondent. I note that both Cooper and St. Charles signed their written reprimands on June 7 but Cooper and other employees refused to sign other written reprimands when they disagreed with their issuance (GC Exh. 12, 21,22,23 and 24).

On the date that the written reprimands were issued, I am aware that the picket line was ongoing in front of Respondent's facility. Moreover, I previously found that Stokes had embarked on a pattern of harassment against employees that supported the Union once the picket line was established. I note that while Cooper was an ardent supporter of the Union, St. Charles was the individual who filed the Decertification Petition and sought the removal of the Union as the exclusive collective-bargaining representative. Thus, I am not persuaded that the written reprimands issued to both employees were due to their protected conduct. Even assuming that antiunion sentiment was a substantial or motivating factor in issuing the written reprimands, I find that the Respondent would have taken the same action even if the employees had not engaged in protected conduct.

Therefore I find that the Respondent did not violate the Act as alleged in the complaint, particularly noting that Respondent maintained a definite policy of wearing safety glasses that was published and acknowledged by employees including Cooper, St. Charles, and Amend. Accordingly, I recommend that paragraph 8(g) of the complaint be dismissed.

III. Respondent's Affirmative Defense

The Respondent asserts in its answer that the allegations alleged in paragraphs 8(a) and (b) of the complaint should be deferred to arbitration pursuant to *Colyer Insulated Wire,* 192 NLRB 837 (1971).

In the subject case, there is no evidence to establish a "long established stable and productive bargaining relationship" as found by the Board in *National Radio Company Inc.,* 198 NLRB 527 (1972), that deferred those complaint allegations to binding arbitration. Moreover, the charges herein involve allegations of union animus and a "pattern of action violative of Section 7 rights." Lastly, I note that the Board in the *The Seng Company,* 205 NLRB 200 (1973), in similar circumstances to the subject case, declined to defer to arbitration where the Union had been decertified.

For all of the above reasons, I find that Respondent's affirmative defense should be denied.

Conclusions of Law

1. Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

2. The Union is a labor organization within the meaning of Section 2(5) of the Act.

3. The Respondent has engaged in unfair labor practices in violation of Section 8(a)(1) of the Act by coercively interrogating employees concerning their union activity, advising an employee that he lost his job because of his union activities, and advising employees that they were being harassed because of their union activities.

4. The Respondent has engaged in unfair labor practices in violation of Section 8(a)(1) and (3) of the Act by issuing written reprimands to employees Robert Shelton, Larry Stevens and Michael Cooper, discharging employee Tony Amend, laying off employees Michael Cooper and Larry Stevens, and harassing and monitoring more closely the work of Larry Stevens and Michael Cooper.

5. The aforesaid unfair labor practices affect commerce within the meaning of Section 2(6) and (7) of the Act.

Remedy

Having found that the Respondent has engaged in certain unfair labor practices, I find that it must be ordered to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act.

The Respondent having discriminatorily laid off Larry Stevens and Michael Cooper and discharged Tony Amend, it must offer them reinstatement and make them whole for any loss of earnings and other benefits, computed on a quarterly basis from date of their layoff or discharge to date of proper offer of reinstatement, less any net interim earnings, as prescribed in *F. W. Woolworth Co.*, 90 NLRB 289 (1950), plus interest as computed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987).

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended[16]

ORDER

The Respondent, Joseph Chevrolet, Inc. Millington, Michigan, its officers, agents, successors, and assigns, shall

1. Cease and desist from

   (a) Coercively interrogating an employee about whether the employee was engaging in union activities.
   (b) Advising an employee that he lost his job because of the employees' union activities.
   (c) Advising employees that they were being harassed because of their union activities.

[16] If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

(d) Discharging, laying off, or otherwise discriminating against any employee for supporting Local 324, International Union of Operating Engineers, AFL-CIO-CLC.
(e) Issuing written reprimands to any employee because of their union activities.
(f) Harassing and more closely monitoring the work of any employee because of their union activities.
(g) In any like or related manner restraining or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Within 14 days from the date of this Order, offer Tony Amend, Larry Stevens and Michael Cooper full reinstatement to their former jobs or, if those jobs no longer exist, to a substantially equivalent position, without prejudice to their seniority or any other rights or privileges previously enjoyed.
(b) Make Tony Amend, Larry Stevens and Michael Cooper whole for any loss of earnings and other benefits suffered as a result of the discrimination against them, in the manner set forth in the remedy section of the decision.
(c) Within 14 days from the date of this Order, remove from its files any reference to the unlawful discharge of Tony Amend, the unlawful layoffs of Larry Stevens and Michael Cooper and the unlawful written reprimands issued to Larry Stevens, Michael Cooper and Robert Shelton, and within 3 days thereafter notify these employees in writing that this has been done and that the discharge, layoffs or written reprimands will not be used against them in any way.
(d) Preserve and, within 14 days of a request, or such additional time as the Regional Director may allow for good cause shown, provide at a reasonable place designated by the Board or its agents, all payroll records, social security payment records, timecards, personnel records and reports, and all other records, including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of backpay due under the terms of this Order.
(e) Within 14 days after service by the Region, post at its facility in Millington, Michigan copies of the attached notice marked "Appendix."[17] Copies of the notice, on forms provided by the Regional Director for Region 7, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since May 30, 2002.

[17] If this Order is enforced by a Judgment of the United States Court of Appeals, the words in the notice reading "POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD" shall read "POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES COURT OF APPEALS ENFORCING AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD."

(f) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

IT IS FURTHER ORDERED that the complaint is dismissed insofar as it alleges violations of the Act not specifically found.

Dated, Washington, D.C. June 16, 2003

_____
Bruce D. Rosenstein
Administrative Law Judge

APPENDIX

NOTICE TO EMPLOYEES

Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union
Choose representatives to bargain with us on your behalf
Act together with other employees for your benefit and protection
Choose not to engage in any of these protected activities

WE WILL NOT discharge or otherwise discriminate against any of you for supporting Local 324, International Union of Operating Engineers, AFL-CIO-CLC or any other union.

WE WILL NOT in any other manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL NOT coercively question you about your union support or activities.

WE WILL, within 14 days from the date of the Board's Order, offer Tony Amend, Larry Stevens and Michael Cooper full reinstatement to their former jobs or, if those jobs no longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights or privileges previously enjoyed.

WE WILL make Tony Amend, Larry Stevens, and Michael Cooper whole for any loss of earnings and other benefits resulting from their discharge or layoffs, less any net interim earnings, plus interest.

WE WILL, within 14 days from the date of the Board's Order, remove from our files any reference to the unlawful discharge, layoffs and written reprimands of Tony Amend, Larry Stevens, Michael Cooper and Robert Shelton, and WE WILL, within 3 days thereafter, notify each of them in writing that this has been done and that the discharge, layoffs, or written reprimands will not be used against them in any way.

Joseph Chevrolet, Inc.

(Employer)

Dated _____ By _____

(Representative) (Title)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: www.nlrb.gov.

477 Michigan Avenue, Federal Building, Room 300, Detroit, MI 48226-2569
(313) 226-3200, Hours: 8:15 a.m. to 4:45 p.m.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE DATE OF POSTING AND MUST

NOT BE ALTERED, DEFACED, OR COVERED BY ANY OTHER MATERIAL. ANY QUESTIONS CONCERNING THIS NOTICE OR COMPLIANCE WITH ITS PROVISIONS MAY BE DIRECTED TO THE ABOVE REGIONAL OFFICE'S COMPLIANCE OFFICER, (313) 226-3244.